

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-101

March 3, 2004

PUBLIC UTILITIES COMMISSION
Investigation of Complaints Regarding
Northern Utilities, Inc.'s Billing Practices

ORDER APPROVING
STIPULATION

I. SUMMARY

We approve the Stipulation filed by Northern Utilities, Inc. (Northern) and the Office of the Public Advocate (OPA) because we find it to be a favorable resolution for customers of issues relating to Northern's unreasonable billing practices that occurred from January 1, 2000 through July 31, 2003.

II. PROCEDURAL HISTORY

On March 5, 2002, we issued a Notice of Investigation into Northern's billing practices that had resulted in numerous customer complaints filed with our Consumer Assistance Division (CAD) regarding Northern's issuance of rebills for service rendered during lengthy periods of time in which customers had received estimated bills.

On March 18, 2003, an Examiner's Report (March 18th Report or Report) was issued recommending that the Commission find that Northern's estimated billing practices, during the period January 1, 2000 to the present, violated the Commission's rules or otherwise constituted unreasonable utility practices. This recommendation was based on a finding that Northern had failed to remedy its chronic billing problems occurring over a period of more than three years, resulting in high levels of customer complaints.

By Order issued May 16, 2003, the Commission granted Northern's Motion for Ruling on Scope, clarifying that the scope of this proceeding includes not just the 43 complaints included in this proceeding but all of its accounts affected by its billing practices.

Staff issued a Supplemental Examiner's Report on June 18, 2003, fulfilling the Commission's directive to prepare a concise specification of the violations and proposed remedies, following which the parties engaged in settlement discussions with Staff participation.

On January 16, 2004, Northern filed, on behalf of it and OPA, a Stipulation designed to resolve all the issues presented in this proceeding. Non-substantive corrections to that filing were made on February 3, 2004.

III. DESCRIPTION OF ISSUES

A. Complaints

Between November 13, 2000 and January 28, 2003, 43 customers filed complaints with the CAD disputing the fairness of re-bills received from Northern. These CAD complaints show that Northern issued re-bills for previously unbilled or over-billed service provided over 5 to 36 months, in amounts ranging from \$323.05 to \$32,040.45.¹ The complainants were both residential and non-residential customers.

B. Billing Practices

In 2000 and 2001, Northern issued large numbers of re-bills to its customers, several of which covered periods of as long as three years. A re-bill, which either credits or charges the customer's account, is based upon an actual meter reading confirming the actual amount of customer usage over a period of time during which usage (and bills) were estimated by the Company.²

The need to issue a re-bill is caused by not obtaining, or not using, actual meter readings as the basis for prior bills. The Company uses an algorithm to calculate the customer's estimated usage for the month or months for which it has no actual reading (or for which an actual reading is rejected). The affect of the Company's failure to confirm actual usage (and, thereby, billing accuracy) is exacerbated when the customer is issued sequential computer-derived estimated bills over prolonged periods of time because usage estimation inaccuracies are compounded.

The Company's practice is to schedule meter readings for each account bimonthly, but to issue bills monthly. Estimated bills are issued in months for which the customer's meter is not scheduled to be read. Consequently, one missed on-cycle reading results in at least three estimated bills unless the customer supplies, and the Company uses, a customer reading.

It is the Company's practice to leave a postcard at the customer's premises for a customer to supply a meter reading when the Company's meter reader

¹ The highest re-bill amount among CAD's residential complaints, \$3,199.17, accrued over 31 months.

² Northern's records show that, in 2000 and 2001, it issued credits to 1,678 customers for over-billed amounts ranging from \$44,993.04 to \$0.25 at an average of \$429.23 per customer. Similarly, the parties identified 1,409 customers eligible to receive credits for previously unbilled service provided during prolonged periods when the customers received estimated billings. The majority of these billing inaccuracies were due to system rejection of actual meter reads by Northern's billing system and failure of its bill exception review process to process the reading. Around 27% were due to lack of an actual meter reading for long periods.

visits the customer's premises but is unable to obtain a reading. The Company allows a very narrow window of time for the customer to supply a meter reading to be used in that bimonthly billing.

1. Rejected Readings

The predominant reason – 73% of all re-billings – for Northern's issuance of estimated bills for prolonged periods in 2000 and 2001 was the Company's Customer Information System's (CIS or billing system) rejection of an actual meter reading supplied either by its meter reader or by the customer. The rejection of actual meter reads resulted from Northern's failure to ensure that the "billing exception report" created by the CIS was manually reviewed in time to confirm the validity of the reported usage and determine whether it should be used for billing purposes that month.³ If the billing exceptions are not resolved by Company personnel within the window of time preset in the billing system, then the system generates and issues an estimated bill based on its algorithmic estimation of the customer's usage, rather than on the actual reading reported to the Company.

Evidence provided in this Investigation shows that, from January 1, 2000 to July 31, 2003, there were 1,409 accounts (1,049 residential and 360 non-residential) – approximately 5% of all accounts – for which Northern issued estimated bills for periods exceeding 6 months (183 days) due to CIS system rejection of actual meter readings; in 294 of these instances, it did so for periods exceeding 12 months.

2. Long No Reads

From January 1, 2000 through July 31, 2003, Northern failed to obtain an actual reading within 12 months for 221 residential customers in violation of Chapter 81 (3)(A), as well as for 73 non-residential (commercial) customers. The period of time for which these meters went unread ranges from approximately 12 to 32 months for residential accounts and from approximately 13 to 20 months for non-residential accounts.

Chapter 81 governs residential billing and payment standards. Section 3(A) requires a utility to obtain an actual meter reading at least once every 12 months "to verify the accuracy of bills issued on the basis of estimated readings or readings provided by the customer." Chapter 86, governing "Disconnection and Deposit Regulation for Nonresidential Utility Service," does not contain explicit provisions regarding meter reading frequency or circumstances when the utility may issue estimated or make-up bills.

³ Northern's CIS will reject bills with reported usage amounts that fall outside of established parameters. These bills must then be examined manually to determine the accuracy of the reported usage.

Pursuant to Chapter 81, section 3(B)(2), a utility cannot issue two consecutive estimated bills (except in limited emergency situations described in Section 3(B)(1)(a) or for certain seasonal customers as stated in Section 3(B)(1)(b)) unless the customer has been given the opportunity to read the meter and report the actual usage but does not do so by the required date.⁴

Northern's practice has been to leave postcards at the customer's premises when it is unable to access the meter at the time of its scheduled visit.⁵ However, it is unlikely that a postcard received by the customer and mailed the next day could reach Northern's Massachusetts billing office and be processed before the close of its reading cycle.

IV. DESCRIPTION OF STIPULATION

The Parties agree that Northern did not act reasonably when it failed to use actual meter readings that it had obtained in a timely manner for a substantial number of accounts since January 1, 2000, thereby perpetuating estimated billings for those customers. Further, the Parties agreed that in a lesser number of instances since January 1, 2000, Northern failed to comply with the Chapter 81 requirement that a utility "obtain an actual meter reading at least once every twelve (12) months to verify the accuracy of bills issued on the basis of estimated readings or readings provided by the customer."

Accordingly, Northern and OPA agreed that credits would be made to two groups of customers, referred to together as "eligible customers," as follows:

⁴ Section 3(E) specifies the circumstances for which a utility may issue a "make-up" bill for service the customer received that was previously unbilled if service occurred no more than 12 months previous to the re-billing date:

- . utility billing error,
- . failure to obtain an actual reading at least once every 12 months; or
- . meter failure or leakage that could not have reasonably been detected by either the utility or the customer.

In the case of fraud or unauthorized use, a utility may bill for service for up to 6 years. A utility may enter into a settlement for just cause that abates all or a portion of the previously unbilled service. Section 3(E)(3). The utility must also notify the customer of the right to a payment arrangement, the terms of which should be negotiated based on the period during which the unbilled service accrued, the length of time between the usage and the issuance of the bill and the reason for the unbilled amount. Section 3(E)(4).

⁵ Slightly more than 50% of Northern's meters (12,800 vs. 12,200) are located inside customer premises and thus require the customer to let Northern inside to read the meter.

1) Customers who received bills based on estimated reads for a period longer than six months and whose meter was actually read at some point during that period but the actual meter read was rejected by the Company (rejected actual reads) are eligible to receive a full refund for the amount rebilled beyond six (6) months prior to the issuance of the re-bill. The Company may fully collect any re-bill amounts that occurred within six (6) months of the issuance of the re-bill for these customers.

2) Customers who received bills based on estimated reads for a period longer than twelve (12) months whose meter was never actually read (long-term no reads) are eligible for a full refund for all amounts rebilled beyond twelve (12) months prior to the issuance of the re-bill. The Company is entitled to fully collect re-bill amounts for these customers (long period no reads) that occurred within twelve (12) months of the issuance of the re-bill.

See Stipulation Attachment 1.

Northern and OPA agree that the credit to eligible customers who had actual reads reported to the Company should be different from the refund that is proposed for those who had long-term no reads. In the situation of the rejected actual reads, Northern concedes that it was responsible for failing to process billing exceptions, including verifying the accuracy of the rejected meter reads, in a timely manner to avoid billing error. Because the negotiating parties could not agree what length of time (from zero to 12 months) is acceptable for a utility to issue successive estimated bills under the Commission's rules, they agreed to "split the difference," allowing Northern to collect for service used only six months prior to the issuance of the make-up bill as opposed to 12 months prior to the issuance of the make-up bill as the most liberal reading of the rule might allow.

Attachment 1 to the Stipulation explains that the rationale for providing a credit to customers who had actual bills rejected and not to customers who went long periods with no read for the 7 to 12 month time period is that lack of access to customer meters is often a cause of long-term no-reads. Consequently, customers might bear some responsibility for the problem, whereas in situations where the Company rejected actual reads, responsibility for the error resides entirely with the Company.

Finally, the Stipulation provides that each of the complaints that falls within the eligible groups described in the Stipulation is resolved in accordance with this Stipulation and to the satisfaction of the CAD. Northern and CAD have addressed all complaints that fall outside of the eligible customer groups outside of this Investigation.

Lists of the complaints included in, and those excluded from, this settlement are provided in Stipulation Attachment 3.⁶

IV. DECISION

When considering stipulations we look for the following criteria:

1) whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;

2) whether the process that led to the stipulation was fair to all parties; and

3) whether the stipulated result is reasonable and is not contrary to legislative mandate.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me.P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me.P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me.P.U.C. April 28, 1997). We are satisfied that the proposed stipulation in this case meets all these criteria and we approve it.

The Stipulation provides a favorable resolution for Northern's customers and establishes remedial actions that have been, and will continue to be, made by Northern so that the practices that led to substantial numbers of rejected actual reads and long no reads will not continue. Northern has initiated an aggressive meter reading program that includes encouraging customers to phone in a reading, Saturday meter reads, follow-up telephone and mail contacts to schedule a meter read, and, ultimately, if all other strategies fail, disconnection procedures. See "Interim Meter Reading Strategy – Long Term No Reads" Stipulation Attachment 2 and "Sample Door Knob Card" Stipulation Attachment 4. Northern has also implemented new billing center procedures with management oversight and incentives in an effort to dramatically reduce instances of rejected actual reads.

In our view, the remedial measures and bill credits described in the Stipulation provide a reasonable resolution of Northern's unreasonable billing practices. It is unfair to surprise customers with bills for service issued long after the fact. Chapter 81, our

⁶ Appeal rights for all complainants remain unchanged, although it is expected that the Commission will give due weight to the stipulated resolution for complaints that are resolved in this Investigation.

residential service rule, contains provisions to ensure that meters are read at least every 12 months and limiting recovery to service provided up to 12 months from the date the re-bill was issued. Bill adjustment is an appropriate remedy in this proceeding because it is consistent with the intent of the rule to protect customers from extensive periods of unverified billings and tardy re-bills. A bill adjustment remedy is a means to ensure that unreasonable billing practices in effect from 2000 through July 31, 2003 do not frustrate these customer protection policy goals.

Finally, bill adjustment is consistent with the type of relief that the Commission has upheld in similar situations and is the typical remedy employed by CAD for complaint resolution. See e.g., *Edwin McDermott v. Union River Electric Cooperative, Inc.*, CAD Complaint on Account #1768, CAD Decision Letter (April 25, 1989) (utility failure to provide customer with a bill for actual consumption of electricity at least once each year is not a reasonable practice; CAD abates unbilled service charges over one year.); *Agnes Holt v. BHE*, CAD Decision Letter (June 3, 1992) (where utility billed customer from wrong meter, CAD ordered utility to abate one-half of previously unbilled service amount to under-billed customer because customer “was denied his ability to control and conserve usage”); and *Richard Lee, Jr. v. BHE*, CAD Decision Letter (Sept. 2, 1992) (CAD abated bill to estimated amount due to utility’s failure to comply with requirements of Chapter 32 which entitled customer to be present at meter test.).⁷

The Stipulation further provides that Northern will evaluate and report on or before December 15, 2004 on the merits of using Automatic Meter Reading (AMR) in Maine, which allows for reads without access and is particularly suitable for chronic long no read locations. By then, the Company will have a year's performance history under its new practices to determine their effectiveness and will be better able to assess whether the expense of implementing AMR is warranted.

Finally, the Stipulation provides that the effectiveness of Northern's revised billing practices and training efforts will be monitored and will be subject to penalty under the

⁷ These policies are similar to those imposed in Massachusetts, Northern’s parent company’s jurisdiction. See *Bay State Gas Company v. Solly Ward*, Massachusetts (MA) Department of Public Utilities (DPU) 86-127-I, Consumer Division Decision (Sept. 4, 1986) citing MA DPU regulations, 220 C.M.R. 25.02(2), which require companies to make an actual reading at least every other billing period, unless the case fits within certain specified exceptions, and finding that a company that sends a customer over six months of estimated bills has exhibited a reckless disregard of Department regulations. In *Boston Edison Company v. Lowe*, MA DPU 1190 (1983), the MA DPU noted that the purpose of the regulation is to ensure that companies' bills provide customers with appropriate price signals and to prevent customers from being burdened with large catch-up bills to correct months of underestimated bills. Consequently, the decision states that the Department often will order the company to reduce the bill by the portion attributable to the period beginning six months after the previous actual meter reading (partial abatement).

terms of the service quality plan that the Parties are developing, should its performance fall below agreed-upon levels.

VI. CONCLUSION

We find the Stipulation executed by Northern and OPA and proposed for resolution of this Investigation and approve it.

Dated at Augusta, Maine, this 3rd day of March, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.